

Serial No. 09/855,196

Docket No.: KCC-14,944

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-37 are pending.

Information Disclosure Statements

The Examiner has acknowledged receipt of the Second, Third, Fourth, and Fifth Information Disclosure Statements, as well as all 3 parts of the 3-part electronic Information Disclosure Statement filed by Applicants, and has provided Applicants with a copy of the corresponding Forms PTO-1449 with her initials next to each reference indicating consideration of the cited references.

Applicants filed a First Information Disclosure Statement on 29 May 2001. Applicants respectfully request the Examiner's acknowledgment of consideration of each of the references cited in the First Information Disclosure Statement.

Amendments to the Claims

Claims 1-37 have been examined with no claims being allowed. Independent Claims 1, 15, and 27 have been amended to include the limitation of the color pigment being applied to a substrate that creates a visible perception of a discrete elastic band on the substrate where no actual elastic band is present on the substrate. Support for this limitation is provided, for example, on page 3, lines 15-21, and on page 4, lines 6-8. Claim 5 has been amended in view of the amendment to Claim 1 from which Claim 5 depends.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

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Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-37 under 35 U.S.C. §103(a) as being unpatentable over Mathis et al. (U.S. Patent No. 5,680,653, hereinafter "Mathis") in view of Glaug et al. (U.S. Patent No. 6,478,786, hereinafter "Glaug") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Mathis discloses an elastic laminate suitable for use in forming a surgical gown cuff. The elastic laminate includes at least one stretchable layer and at least one elastic liquid barrier layer. Mathis fails to disclose or suggest an apparent elastic band in the laminate, particularly with a color pigment applied to a substrate that creates a visible perception of a discrete elastic band on the substrate where no actual band is present on the substrate.

Glaug discloses protective underwear that may include at least some elastic fibers of either the front or back of the undergarment distinctively colored to be readily discernable from the color of the chassis material, thereby enabling a person to readily determine which is the front and which is the rear of the undergarment so that it can be put on properly. Thus, Glaug also fails to disclose or suggest a color pigment applied to a substrate to create a visible perception of a discrete elastic band where no actual band is present.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Neither Mathis nor Glaug provides any suggestion or motivation to include the appearance of an elastic band in a laminate without there being an actual elastic band, particularly such an "apparent elastic band" enhanced with a color pigment.

As explained at page 3, lines 3-17, the elimination of a separately manufactured elastic band in garments reduces cost; however, because the use of visible, distinct elastic bands has gained widespread consumer acceptance, there is an incentive to at least maintain the perception of a visibly distinct elastic band where elastic properties exist. Applicants' claimed invention, through the use of an apparent elastic band, creates the visible perception of a discrete elastic band, even though no

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such band is present. The added color pigment enhances the visible perception of a discrete elastic band, even though there is no actual elastic band.

Neither Mathis nor Glaug identify this need for an apparent elastic band, or any other use for an apparent elastic band. In fact, Glaug uses actual colored elastic fibers, thus eliminating any need to create the illusion of elastic fibers. Furthermore, Glaug fails to provide any motivation to add the illusion of an elastic band to the Mathis laminate. Thus, there is no motivation to modify either of these references to include an "apparent" elastic band, particularly an apparent elastic band enhanced with a color pigment.

For at least the reasons given above, Applicants respectfully submit that the teachings of Mathis in view of Glaug fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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